METROPOLITAN
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Memorandum

TO: Legislation Committee

DATE: June 6, 2003

FR: Executive Director

RE: State Budget Update

Senate Follows Governor's Lead; Assembly Takes a Different Route

The Senate and Assembly Budget Committees have completed their respective work on the state budget and have put forward two distinctly different proposals related to transportation. The Senate version follows the direction of the Governor's May Revision by partially suspending Proposition 42 but providing enough funding to meet cash flow needs for Traffic Congestion Relief Program (TCRP) projects that received an allocation by December 2002. By contrast, the Assembly version goes several steps further by providing sufficient funding to meet cash flow needs not only for projects with an existing allocation, but also for projects (and project phases) that would seek further allocations after July 1, 2003. In addition, the Assembly version provides a combined $273 million from Proposition 42 revenues for local streets and roads, the State Transportation Improvement Program (STIP), and the Public Transportation Account (PTA) distributed according to the 40:40:20 formula. The table below details the differences between the two proposals.

Category *(dollars in millions)*	**Senate Version**	**Assembly Version**
Total Proposition 42 Revenues	$1,145	$1,145
PTA Spillover ($87 million)	Suspended and left in General Fund	Suspended and transferred to TIF (40:40:20)
Traffic Congestion Relief Program	$207	$459
Transportation Investment Fund (TIF)		
State Transportation Improvement Program (40%)	0	$109
Local Streets and Roads (40%)	0	$109
Public Transportation Account (20%)	0	$55
Proposition 42 Loan Repayment	Repaid by July 1, 2009	Repaid by July 1, 2009, with first installment beginning in 2006
Previous $500 million TCRF loan to General Fund	Loan repayment deferred until June 30, 2009	Loan repayment deferred until June 30, 2009
Total General Fund Contribution	$1,525 (Loan deferral + spillover + Prop 42 difference)	$1,000 (Loan deferral + Prop 42 difference)

While the Assembly version provides the General Fund with a $1 billion loan, the Senate version provides the General Fund with $1.5 billion in transportation revenues. Which proposal wins out will depend largely on the overall budget negotiations vis-à-vis the General Fund.

The Assembly Budget Proposal Offers Greater Benefit to Bay Area Transportation
The Assembly version provides several advantages over the Senate version for the Bay Area. First, it allows TCRP projects to move forward on schedule. Based on input from project sponsors, we estimate that Bay Area project sponsors will seek an additional $589 million in new allocations during FY 2003-04 should allocations be allowed to resume. This includes additional funding for BART to San Jose, seismic retrofit for BART, an HOV lane on Interstate-580 in Alameda County, a reversible lane on Highway 101 in Marin County, and various Caltrain improvements, among other projects. In addition, the Bay Area would receive approximately $22 million for local streets and road maintenance, $15.7 million for the STIP, and $12 million for STA funding.

Neither Proposal Allocates Spillover According to Current Law
Notably, neither the Assembly nor the Senate honor existing law related to the "spillover," an arcane formula that requires transfers to the PTA when gasoline prices are high and the overall economy is sluggish. The Senate followed the Governor's lead by diverting the entire $87.4 million to the General Fund, resulting in a statewide loss of approximately $43.7 million for the STA Program, and a like amount lost for the PTA's capital program. The Assembly, on the other hand, chose to suspend the spillover transfer to the PTA, and instead transfer the entire amount into the Transportation Investment Fund (TIF), which funds the STIP, local streets and roads and the PTA under the 40:40:20 split. While some commenters have raised questions as to the legality of diverting the spillover, the Legislature has imposed caps on the spillover several times in recent years and the action has never been challenged.

Both the Senate and the Assembly approved STA funding at the level specified in the Governor's January budget and May Revision — $100.4 million. This amount represents a 4.6 percent increase over the current level due to increased revenues from the sales tax on diesel and gasoline.

Restoration of Caltrans Staffing Level Approved
Both houses also approved the Governor's request to increase Caltrans staff by 1,365 positions – at a cost of $98.4 million. This is a restoration of Caltrans staffing cuts that were proposed in the January Budget release, and is in addition to 283 TCRP support staff positions that were also restored. It is worth noting that these positions, costing almost $50 million, are proposed to be funded out of the $206 million for the TCRP. As the TCRP is repaid, we will have to ensure that support costs are not taken off the top from project funding.

Next Steps
At the time this memo was prepared, each house was expected to vote on the budget during the first week of June, with conference committee to begin the following week.

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RE: Administration's Reauthorization Bill — SAFETEA

On May 14th, the Administration unveiled its 378-page proposal for reauthorization of the federal transportation bill called the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, or SAFETEA for short. This memo is an overview of that proposal.

As foreshadowed by the Administration's FY 2004 Department of Transportation Budget released in February, the good news is that the general structure of ISTEA and TEA 21 are maintained. However, the bad news is that the six-year funding total only increases to $247 billion in SAFETEA from $218 billion in TEA 21, a modest 12.5 percent. This compares with a 40 percent increase in TEA 21 over levels in ISTEA. Specifically, funding proposed for the highway and transit programs are $201 billion and $46 billion, respectively. The increases in the highway and transit program are not uniform with an increase of 14% for the highway program and only 12% for the transit program. Attachment A includes a detailed comparison of the different funding levels proposed in SAFETEA relative to TEA 21.

Adding to the funding woes, the existing core highway programs – STP, Congestion Mitigation and Air Quality Improvement (CMAQ), National Highway System (NHS), Bridge, and Interstate Maintenance – increase by only 9% due to the creation of new funding categories in SAFETEA. When contrasted with the continued growth in transportation infrastructure needs as well as the 17% increase in populations living in non-attainment areas, the core program including CMAQ funding proposed in SAFETEA seems woefully inadequate.

Overview

The cornerstone of SAFETEA is a stay-the-course proposal with minor changes that emphasize safety, proposals to reduce the number of discretionary highway and transit programs and replace them with formula programs, an effort to expedite project delivery and to emphasis performance measures and freight. Highlights include:

- A new Infrastructure Performance and Maintenance Program is created that directs $1 billion per year to ready-to-go projects that are able to spend the funds within six months.

- Highway safety is bolstered with a doubling of funding by the creation of a new categorical program that replaces the 10% funding set-aside within the Surface Transportation Program (STP).

- The Formula Grant program for transit includes a new transit incentive program, funded by an increasing percent set-aside of up to 10% by year six of the bill, to reward transit agencies that demonstrate ridership increases.

The hard-fought gains of TEA 21 for budgetary firewalls and an annual link between appropriations and receipts into the Highway Trust Fund (called Revenue Aligned Budget Authority or RABA) are mostly preserved in SAFETEA. The entire federal-aid highway program is still protected by budgetary firewalls, but only the Mass Transit Account element of the transit program, $37.6 billion or roughly 80%, is protected. In TEA 21, the entire transit program — funded by the Mass Transit Account and the General Fund — was protected by guaranteed firewalls.

In a more positive move, SAFETEA proposes to extend the link between revenues and appropriations, or RABA, to the Mass Transit Account of the transit program with proportional increases or decreases distributed uniformly across the program. While this equal treatment of the highway and transit accounts is positive, MTC's transit programming policies will have to consider the additional uncertainty associated with the RABA adjustments if enacted. In that vein, SAFETEA does aim to moderate revenue swings that have been introduced by RABA in recent years through a technical change to the calculation.

Specific Proposed Changes

In addition to the "big picture" structural and funding level changes, there are a host of other changes contemplated in the Administration's proposal. Some particular areas of note include:

- Greater allowance for variable price tolling including high occupancy toll (HOT) lanes to manage existing high levels of congestion or reduce emissions in a non-attainment or maintenance area. After using toll revenues for debt service, a reasonable return on a private investment, and operation and maintenance costs, surplus revenues may be used for eligible Title 23 projects.

- Elimination of several discretionary programs including Bridge and Ferry Boat/Facility. In addition, several former discretionary programs are formularized or consolidated. Examples are the Federal Transit Administration's (FTA) Job Access and Reverse Commute and Bus and Bus Facilities programs that are proposed to be merged and turned into a formula program respectively.

- Changes to the air quality conformity and long-range Plan (Plan) process to require conformity only on the first 10 years of Plan or the last year of the motor vehicle emission budget, whichever is later. In addition, the Plan conformity is required every 5 years instead of triennially. The first 5 years of the Plan is substituted for the Transportation Improvement Program (TIP) requirement.

- SAFETEA increases planning funds and funding to metropolitan areas, based primarily on the clarification that Minimum Guarantee funds are included in to the 1% metropolitan planning calculation and on a shift from an authorized amount to one based on a percentage (1.25% in first year growing to 2% in subsequent years) of the total transit program. Overall, this results in a 183% increase in funds over the 6-year period even under the modest overall funding levels in SAFETEA.

Specific Proposed Changes that Affect the Bay Area

During the annual Congressional visit in March, MTC and its Partner agencies supported the California consensus position on reauthorization as well as several Bay Area-specific policy changes. Although the SAFETEA proposal must be seen in the positive light of not trying to fix what wasn't broken, SAFETEA does fails in several key areas related to program structure, funding levels, strengthening of metropolitan areas, and other areas important to the Bay Area. These areas are as follows:

- While the program structure and flexibility of TEA 21 are largely preserved, firewall protection is eliminated from a portion of the transit program.
- With the exception of the rather modest funding increase resulting from the redirection of the 2.5 cents ethanol tax from the General Fund back to the Highway Trust Fund, measures to increase revenue are not included in the bill.
- SAFETEA is not proposing to strengthen local decision-making through additional suballocation of funds to metropolitan areas. In fact, SAFETEA proposes several new programs focused on congestion relief, improved systems operations, and safety and does not suballocate any of the funds to the Metropolitan Planning Organizations.
- SAFETEA does not include other priority changes that would enhance Bay Area decision-making, expand ferry funding opportunities, and further funding opportunities for our over-matched Resolution 3434 projects.

The rating chart that follows details the successes and failures of the Administration's bill in accomplishing the priorities established by the Commission and other California transportation stakeholders.

Successes and Failures of the Administration's Bill

Bay Area and California Priorities	**Discussion**
Program Structure	
Guarantee reliable funding by retaining the firewalls and improving the Revenue Aligned Budget Authority (RABA) mechanism.	👍👎 Mixed outcome. Funding guarantees are eliminated for a portion of the transit program, which is a significant retreat from TEA 21 commitment to the entire transit program. RABA is retained for highways and extended to the transit program.

Retain the basic structure of the highway and transit program.	👍👎 Mixed outcome. The good news is that the core highway program is maintained and flexibility for both the highway and transit program is left mostly intact. However, the transit program is restructured with mixed results. Merging the Section 5309 Rail Modernization program with the Section 5307 Formula Grants program and eliminating the Bus and Bus Facilities Discretionary program abolishes the established 40-40-20 split between Fixed Guideway, New Starts, and Bus. In our region, it significantly increases the competition among bus operators and rail operators, and directs all discretionary focus to the New Starts Program.
Increase funding flexibility that encourages intermodal solutions.	👍 Surface transportation program eligibility is expanded to include freight intermodal connections among others and bicycle/ pedestrian is added to the eligible safety projects within the Highway Safety Program.
Streamlining	👍 Delegates federal review responsibilities to states for TEA, Recreation Trails, and TCSP programs. RTP conformity required every 5 years, instead of triennially. Conformity applies to first 10 years of RTP, or to last year of the motor vehicle emission budget whichever is later.
Oppose efforts to place a funding cap on transit formula funds.	👍 Retains current formulas without caps.
Reward areas that overmatch discretionary funding in the New Starts program.	👎 No mention in the bill.
Retain the 80 percent federal and 20 percent local match requirement for FTA New Starts.	👎 The Administration proposes to change the match to 50-50 federal and local.
Grow the Highway/Transit Programs	
Restore Equal Taxation of Gasohol.	👎 No mention in the bill.
Redirect Gasohol Tax to the Highway Trust Fund.	👍 Administration bill does redirect 2.5 cents of ethanol tax that had been diverted to the General Fund. Annually, this proposed change would increase revenue to the highway account by roughly $700 million.

Credit all interest earned on the fund balances in the Highway Account and Mass Transit Account of the Trust Fund directly to these funds.	No mention in the bill.
Raise obligation levels to match authorization levels and spend down the Highway Trust Fund balance.	Obligation levels are closer to 100% as opposed to the roughly 90% limit established in TEA 21.
Index Fuel Tax to inflation.	No mention in the bill.
Innovative Finance	Allows high occupancy toll (HOT) lanes but restricts use to Title 23 so transit operations prohibited. Reduces project eligibility threshold from $100 to $50 million for TIFIA line of credit. Maintains FY 2003 credit limitation of $2.6 billion for each year of SAFETEA; six-year total for credit limitation is $15.6 billion as compared to $10.6 billion for TEA 21.
Grow the US Economy by Strengthening Metropolitan Areas	
Restore suballocation of the STP Minimum Guarantee funds and extend the suballocation to all large and small metropolitan planning areas (MPOs).	No mention of this in bill. Of additional concern, the Minimum Guarantee funds increase by 27% as opposed to 9% for the rest of the core programs reducing the share of funding that is suballocated to MPOs.
Extend suballocation of CMAQ funds to MPOs in air quality non-attainment and maintenance areas.	No mention in the bill.
Bay Area Specifics	
Remove restriction on use of Bay Area bridge toll funds so revenues can be used for transit operations.	No mention in the bill.
Expand ferry discretionary program from current $38 million to $75 million, with a Bay Area set-aside in an amount similar to that currently given to Washington, Alaska, and New Jersey.	SAFETEA eliminates the ferryboat and facilities program.
Seek future Bus and Bus Facilities Discretionary funds for Resolution 3434 projects.	The Administration's bill eliminates the Bus and Bus Facilities Discretionary program by shifting funds into the New Starts and formula programs.

House and Senate Action

Both the House and Senate authorizing committees have held hearings to discuss the Administration's proposal. The consensus message from the Congressional committees is that the SAFETEA funding levels are unacceptable given the Department of Transportation's own assessment of the nation's transportation infrastructure needs. Under Chairman Young's leadership, the House Transportation and Infrastructure is calling for a $375 billion bill. The Senate is slightly less aggressive, with the Senate Environment and Public Works and the Senate Banking, Housing and Urban Affairs Committees both vowing to craft a six-year bill totaling $312 billion.

Both the House and Senate are late in preparing their bills and introduction of House and Senate bills is not expected until July.

FY 2004 Budget

Fiscal year 2004 transportation appropriations are subject to a new authorization bill. In early April, a conference committee of House and Senate members reached agreement on a budget resolution for transportation. The budget resolution authorized slightly more funding than the Administration's bill over the next six years at $273 billion, but still much less than envisioned by the House and Senate authorizing committees. The budget resolution did, however, include a provision that allowed higher funding levels if additional revenue — such as spending down the existing trust fund balance, indexing the fuel tax or a fuel tax increase — could be identified.

Amidst the unveiling of SAFETEA and work on their respective bills, members are also floating various proposals — 22 at last count — that could be included in a reauthorization effort. One of the more ominous proposals by Senators Charles Grassley and Max Baucus (chair and ranking member of the Senate Finance Committee) would take most of the federal fuel tax now dedicated to transit and redirect it to highways, and finance transit through the sale of bonds. The major trade organizations — STPP, APTA, AASHTO, ARTBA, Conference of Mayors, and AMPO — all oppose this proposal.

Timing of Reauthorization

With TEA 21 expiring on September 30, 2003, the key question is whether a six-year bill will be completed near the expiration date. Most close to the process believe that the bill will be delayed given the lack of available revenues and the Administration's position against a fuel tax increase. As the likelihood of delay and a need for an extension become more certain, discussions about the pros and cons of a one- to two-year extension are emerging. The next several months will continue to be critical for determining the timing and political dynamics of the reauthorization of the transportation bill.

Steve Heminger

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Attachment A: Comparison of Key Programs in TEA 21 and SAFETEA

Titles and Programs (Dollars in Millions)	Total TEA-21	Total SAFETEA	Absolute Change	Percentage Change
Title I-Federal-Aid Highways				
Interstate Maintenance Program	$23,810	$26,000	$2,190	9.2%
National Highway System	$28,571	$31,200	$2,629	9.2%
Bridge Program	$20,430	$22,300	$1,870	9.2%
Surface Transportation Program	$33,333	$32,741	-$592	-1.8%
Congestion Mitigation/Air Quality Improvement Program	$8,123	$8,862	$739	9.1%
Highway Safety Improvement Program		$7,500	$7,500	new program
Appalachian Development Highway System	$2,250	$2,700	$450	20.0%
Recreational Trails Program	$270	$360	$90	33.3%
Federal Lands Highways Program:	$4,066	$5,808	$1,742	42.8%
National Scenic Byways Program	$148	$189	$41	27.7%
Highway Use Tax Evasion	$35	$202	$167	477.3%
Minimum Guarantee	$35,119	$44,652	$9,533	27.1%
Transportation Infrastructure Finance and Innovation	$530	$780	$250	47.2%
Multi-State Corridor Planning (1)	$700	$497	-$204	-29.1%
Border Planning, Operations and Technology Program (1)		$497	$497	new program
Intelligent Transportation System Performance Incentive Program		$810	$810	new program
Infrastructure Performance and Maintenance Program		$6,000	$6,000	new program
Deployment		$150	$150	new program
National Blue Ribbon Commission on Safety		$7	$7	new program
Transportation, Energy, and Environment		$19	$19	new program
Emergency Relief		$1,200	$1,200	new program
Other Program not included or moved in SAFETEA	$13,724		-$13,724	-100.0%
Total-Title I	**$171,108**	**$192,473**	**$21,365**	**12.5%**
Total - Titile II Highway Safety	**$1,711**	**$3,415**	**$1,704**	**99.6%**
Title III-Federal Transit Administration Programs				
Urbanized Area Formula Grants(2)	$24,626	$29,250	$4,624	18.8%
Clean Fuels	$250		-$250	-100.0%
Formula Grants for Other than Urbanized Areas	$1,180	$2,276	$1,096	92.9%
Formula Grants and Loans for Special Needs of Elderly Individuals and Individuals with Disabilities	$456	$551	$95	20.8%
Rural Transportation Accessibility Incentive Program-Intercity, Fixed-Route and -Other	$24	$42	$17	71.6%
Bus and Bus Related Facilities	$3,546		-$3,546	-100.0%
New Starts/Major Capital Investment Grants (3)	$8,182	$9,525	$1,343	16.4%
Transit Planning Program (4)	$534	$852	$318	59.6%
Transit Research and Technology (5)	$443	$277	-$166	-37.5%
Clean Fuels Formula Grant Program (6)	$500		-$500	-100.0%
University Transportation Research (7)	$36	$36	$0	0.0%
Administration (7)	$442	$484	$42	9.6%
Job Access and Reverse Commute Grants (7)	$750	$950	$200	26.7%
Alaska Railroad	$29	$29	$0	0.0%
National Transit Database		$24	$24	new program
Bus Testing Facility		$21	$21	new program
Intermodal Facilities Intercity Bus Grants		$375	$375	new program
National Parks Legacy Program		$150	$150	new program
Revenue Aligned Budget Authority		ssambn		new program
New Freedom Program		$918	$918	new program
Total-Title III	**$41,000**	**$45,761**	**$4,762**	**11.6%**
Total - Title IV Motor Carrier Safety	**$644**	**$2,829**	**$2,185**	**339.0%**
Total-Title V-Transportation Research	**$2,881**	**$2,590**	**-$291**	**-10.1%**
Total-Title VI- Intermodal Facilities and Grants		**$50**	**$50**	**new program**
Total-Title VII-Miscellaneous	**$545**	**$300**	**-$245**	**-44.9%**
GRAND TOTAL	**$217,890**	**$247,418**	**$29,529**	**13.6%**

Notes

1. In TEA 21, the Border and Corridor programs were combined into National Corridor Planning and Development and Coordination Border Infrastructure Program
2. Under SAFETEA, the line item for Urbanized Area Formula Grants includes rail (fixed guideway) modernization
3. Under SAFETEA, the New Starts program is renamed, "Major Capital Investments Grants." Dollar amounts under SAFETEA are
4. Under SAFETEA, the Transit Planning program is renamed, "Planning Programs". Dollar amount for TEA-21 includes General
5. Under SAFETEA, the Transit Research program is renamed, "Transit Research and Technology". Dollar amount for TEA-21
6. Dollar amount for TEA-21 comes from General Funds.
7. Dollar amount for TEA-21 includes General Funds.

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